

## **CHAPTER 467B**

### **SOLICITATION OF FUNDS FROM THE PUBLIC**

#### **SECTION**

467B-1	Definitions
467B-2	Filing requirements for charitable organizations
467B-3	Reciprocal agreements
467B-4	Repealed
467B-5	Records to be kept
467B-5.5	Commercial co-venturer's charitable sales promotions
467B-6	Filing of agreements
467B-7	Repealed
467B-8	Information filed to become public records
467B-9	Prohibited acts
467B-9.5	Financial statements
467B-9.6	Enforcement
467B-10	Penalties
467B-10.5	Violation as unfair practice
467B-11	Exemptions
467B-12	Filing requirements for professional fund-raising counsel and professional solicitors
467B-13	Rules
467B-14	Publication

**§467B-1 Definitions.** As used in this chapter, unless the context otherwise requires:

"Charitable organization" means:

- (1) Any person determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501 (c) (3) of the Internal Revenue Code of 1986, as amended; or
- (2) Any person who is or holds itself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that has a tendency to suggest there is a charitable purpose to the solicitation. The term includes each county or other local division of the charitable organization within this State, if the division has the authority and discretion to disburse funds or property otherwise than by transfer to any parent organization. The term does not include any federal, state, or county agency, or political parties and candidates for federal, state, or county office required to file financial information with federal or state election authorities or commissions.

"Charitable purpose" means:

- (1) Any purpose described in section 501 (c) (3) of the Internal Revenue Code of 1986, as amended; or
- (2) Any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary objective.

"Charitable sales promotion" means an advertising or sales campaign, conducted by a commercial co-venturer, that represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit, in whole or in part, a charitable organization or charitable purpose.

"Commercial co-venturer" means a person who, for profit, is regularly and primarily engaged in trade or commerce other than in connection with soliciting for charitable organizations or charitable purposes, and who conducts charitable sales promotions.

"Contribution" means the promise or grant of any money or property of any kind or value, including the promise to pay, except payments by members of a charitable organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the charitable organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from any governmental authority.

"Department" means department of commerce and consumer affairs of the State.

"Director" means the director of commerce and consumer affairs of the State.

"Gross receipts" means the total amount of money, contributions, and revenue of any kind received by the charitable organization from all sources, without subtracting any costs or expenses.

"Membership" means membership in a charitable organization that provides services and confers a bona fide right, privilege, professional standing, honor or other direct benefit upon its members, in addition to the right to vote, elect officers or hold offices, upon the payment of fees, dues, assessments, etc. The term does not include those persons who are granted a membership upon making a contribution as a result of solicitation.

"Parent organization" means that part of a charitable organization that coordinates, supervises, or exercises control over policy, fund raising, and expenditures, or assists or advises one or more chapters, branches, or affiliates in the State.

"Percentage compensation" means any compensation, commission, bonus, award, or remuneration, whether direct, indirect, or otherwise, that is calculated by means of a formula, process, evaluation, or other mechanism that considers the amount of funds to be raised or received.

"Person" means any individual, organization, trust, foundation, group, association, partnership, corporation, society, or any combination thereof.

"Professional fund-raising counsel" means any person who, for a fee, plans, conducts, manages, carries on, advises, or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for or on behalf of any charitable organization, but who actually solicits no contributions as a part of the person's services. The term includes a bona fide volunteer, salaried officer, or employee of

a charitable organization if the bona fide volunteer, salaried officer, or employee of the charitable organization receives percentage compensation.

"Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for or on behalf of a charitable organization. The term includes a bona fide volunteer, salaried officer, or employee of a charitable organization if the bona fide volunteer, salaried officer, or employee of the charitable organization receives percentage compensation. The term does not include an attorney, investment counselor or advisor, financial advisor, or banker, or other person who:

- (1) Advises another person to make a contribution to a charitable organization as part of the person's employment; and
- (2) Does not receive compensation from the charitable organization for that advice.

"Solicit" and "solicitation" means a request directly or indirectly for money, credit, property, financial assistance, or thing of value on the plea or representation that the money, credit, property, financial assistance, or thing of value, or any portion thereof, will be used for a charitable purpose or to benefit a charitable organization. These terms shall include the following:

- (1) Any oral or written request.
- (2) The making of any announcement to any organization for the purpose of further dissemination, including announcements to the press, over the radio or television, or by telephone, telegraph, or facsimile, concerning an appeal or campaign by or for any charitable organization or purpose.
- (3) The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support.
- (4) Where the sale or offer or attempted sale, of any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies, or other tangible item in connection with which any appeal is made for any charitable organization or purpose; or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale; or where in connection with any sale, any statement is made that the whole or any part of the proceeds from any sale will be used for any charitable purpose or to benefit any charitable organization.
- (5) A request made through the use of receptacles for contributions such as honor boxes, vending machines, wishing wells, contribution boxes, and novelty machines, where a charitable appeal is used or referred to or implied as an inducement or reason to contribute.

A solicitation occurs whether or not the person making the solicitation receives any contribution.

**§467B-2 Filing requirements for charitable organizations.** (a) Every charitable organization, except as otherwise provided in this chapter, that intends to solicit contributions within or from the State, prior to any solicitation, shall file a statement as prescribed by the director. It shall be the duty of the president, chairperson, or principal officer of the charitable organization to file the

statement required under this chapter. The statement shall be sworn to and shall contain the following information and attachments:

- (1) The name of the charitable organization and the purpose for which it was organized;
- (2) The principal address of the charitable organization and the addresses of any office in the State. If the charitable organization does not maintain an office, then the name and address of the person having custody of its financial records;
- (3) The name and address of any chapter, branch, or affiliate in the State;
- (4) The date of and place where the charitable organization was legally established, and the form of its organization;
- (5) The name and address of all officers, directors, and trustees, and of the principal salaried executive staff officer;
- (6) Whether the charitable organization has obtained tax exempt status under state or federal law and, if so, copies of its federal or state tax exemption determination letters. Every charitable organization that files a statement with the department, within thirty days after receipt, shall file with the director copies of any federal or state tax exemption determination letters received after the initial statement filing;
- (7) Whether the charitable organization intends to solicit contributions from the public directly or have the solicitation done on its behalf by others. Where solicitation will be performed by a professional solicitor or commercial co-venturer on behalf of the charitable organization, whether the professional solicitor or commercial co-venturer is authorized by any other governmental authority to solicit contributions and whether the professional solicitor or commercial co-venturer, or any of the officers, directors, or managers of the professional solicitor or commercial co-venturer is or has ever been enjoined from soliciting contributions or had the authority to solicit contributions denied, suspended, or revoked;
- (8) Whether the charitable organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined from soliciting contributions or had the authority to solicit contributions denied, suspended, or revoked;
- (9) The general purpose for which the contributions to be solicited shall be used;
- (10) The names which the charitable organization has ever used or been known by, any name under which it intends to solicit contributions and, where the name of the charitable organization was not used in the solicitation, the name of every charitable solicitation campaign it has ever used or been known by. Every charitable organization that files a statement with the department shall file with the director at least thirty days prior to the use of the name in any solicitation within or from the State, a notice of any additional names under which it intends to solicit contributions or additional names of charitable solicitation campaigns where the name of the charitable organization will not be used in the solicitation;
- (11) The name of the individual or officer of the charitable organization who will have final responsibility for the custody of the contributions;

- (12) The name of the individual or officer of the charitable organization responsible for the final distribution of the contributions;
- (13) The accounting method used by the charitable organization, the starting date of the charitable organization's annual accounting period, and the charitable organization's employer identification number; and
- (14) Any other information that the director may require.
  - (b) Each chapter, branch, or affiliate may:
    - (1) Separately report the information required by this section; or
    - (2) Report the information to its parent organization which shall furnish the information as to its state affiliates, chapters, and branches in a consolidated form to the department.
  - (c) On and after July 1, 1995, every charitable organization that is required to file a statement pursuant to subsection (a), and which receives \$25,000 or more in gross receipts during its preceding annual accounting period, at the time of filing the statement pursuant to subsection (a) and any renewal statements, shall file with the director a copy of financial statements for the preceding annual accounting period. When the organization's gross receipts are not less than \$25,000 but not more than \$100,000 during the preceding annual accounting period, the financial statements shall be reviewed or compiled by an independent certified public accountant. When the organization's gross receipts exceed \$100,000 during its preceding annual accounting period, the financial statements shall be audited in accordance with generally accepted auditing standards by an independent certified public accountant.

All financial statements shall be in accordance with generally accepted accounting principles except to the extent otherwise prescribed in this subsection or by the director. In addition to those statements required pursuant to generally accepted accounting principles, the financial statements or their related footnotes shall include a disclosure setting forth the amounts recorded as expenses for each professional fund-raising counsel and professional solicitor retained and, where not already required pursuant to generally accepted accounting principles, a statement or schedule of expenses, functionally allocated to expense of program, both management and general, and fundraising. The director may require additional information to be set forth in the financial statements as the director may deem appropriate, prescribe standards for their completion, and change the threshold amounts for the filing of the financial statements pursuant to this subsection.

(d) The forms and other documents prescribed by the director shall be signed by an authorized officer and by the chief fiscal officer of the charitable organization and verified by oath.

(e) Every charitable organization that submits a statement or a renewal statement to the department shall pay a fee in the amount of \$10, or in the amount and with any additional sums as may be prescribed by the director. A parent organization filing on behalf of one or more chapters, branches, or affiliates shall pay a single fee for itself and the chapters, branches, or affiliates included in the statement.

(f) In lieu of submitting the financial statement pursuant to subsection (c), a charitable organization may file the completed and fully executed Internal Revenue Service Form 990 or Form 990EZ or their successor forms, if all schedules, exhibits, and attachments that were filed with the Internal Revenue Service are attached to the signed 990 or 990EZ or successor forms filed with the department with the exception of the Schedule of Contributors, which need not be filed. The Internal

Revenue Service document may be used in lieu of the financial statement only to the extent that the information required by subsection (c) is provided by the document.

The signed 990 and 990EZ forms or their successor forms need not be audited. Any amendments to the information contained in the forms shall be filed with the department within thirty days after the amendments are filed with the Internal Revenue Service.

(g) Before July 1 of each year following the year in which the charitable organization first filed the statements required by subsection (a), the charitable organization, prior to any solicitation or operation, shall file a renewal statement in a form prescribed by the director, together with the renewal fee and, where required under subsection (c), a copy of the charitable organization's financial statement for the preceding annual accounting period. The director may prescribe procedures to allow a charitable organization extensions of time to file the statements required by this subsection for a period not more than to six months. Except as provided in this subsection, the failure to comply with this section in a timely manner shall be deemed to be withdrawal of the initial statement and all subsequent renewal statements filed with the department by that charitable organization.

(h) Every charitable organization that has filed a statement as required by subsection (a) shall notify the department of any changes in the information provided under subsection (a) (1), (2), (7), (8) and (11), not more than ten days after the change or occurrence.

**§467B-3 Reciprocal agreements.** The director may enter into a reciprocal agreement with the appropriate authority of another state for the purpose of exchanging information with respect to charitable organizations, professional fund-raising counsel, and professional solicitors. Pursuant to the agreement, the director may accept information filed by a charitable organization, professional fund-raising counsel, or professional solicitor with the appropriate authority of another state in lieu of the information required to be filed in accordance with this chapter if the information is substantially similar to the information required under this chapter. The director may also grant exemption from the requirement of filing of annual statements to charitable organizations organized under the laws of another state having their principal place of business outside the State, whose funds are derived principally from sources outside the State and which have been granted exemption from the filing of annual statements by the state under whose laws they are organized if the state has a stature similar in substance to this chapter.

#### **§467B-4 Repealed.**

**§467B-5 Records to be kept.** Every charitable organization, professional fund-raising counsel, and professional solicitor subject to this chapter shall keep true and accurate records as to its activities in a form that will accurately provide support for the information required by this chapter. Upon demand, the records shall be made available to the director for inspection. The records shall be retained for a period of not less than five years.

**§467B-5.5 Commercial co-venturer's charitable sales promotions.** (a) All charitable sales promotions by a commercial co-venturer shall disclose the name of the commercial co-venturer.

(b) Prior to the commencement of any charitable sales promotion in this State conducted by a commercial co-venturer using the name of a charitable organization, the commercial co-venturer shall obtain the written consent of the charitable organization whose name will be used during the charitable sales promotion.

(c) A final accounting for each charitable sales promotion shall be prepared by the commercial co-venturer following the completion of the promotion. A copy of the final accounting shall be provided to the director not more than twenty days after the copy is requested by the director. A copy of the final accounting shall be provided to the charitable organization not more than twenty days after the copy is requested by the charitable organization. The final accounting shall be kept by the commercial co-venturer for a period of three years, unless the commercial co-venturer and the charitable organization mutually agree that the accounting should be kept by the charitable organization instead of the commercial co-venturer.

**§467B-6 Filing of agreements.** (a) Every contract between a professional fund-raising counsel and a charitable organization that provides for a percentage compensation shall be filed with the department within ten days after the contract is signed by the charitable organization.

(b) Every contract between a professional solicitor and a charitable organization that provides for a percentage compensation shall be filed with the department not more than ten days after the contract is signed by the charitable organization. The contract shall disclose the percentage distribution between the parties to the contract of all funds to be raised or received as a result of the agreed upon solicitation activity.

(c) The charitable organization, and the professional solicitor or professional fund-raising counsel shall ensure that all the percentage-based contracts to which they are parties are on file with the department.

(d) On July 1, 1995 and on July 1 of each year thereafter, the charitable organization, and the professional fund-raising counsel or professional solicitor who are or were parties to contracts that provide for percentage compensation, shall file with the department a financial report for each percentage compensation contract pursuant to which solicitations were conducted in or from this State during the preceding twelve-month period. The financial report shall cover the preceding twelve-month period and state, for each contract, the name and address of each party, the gross receipts and revenues collected, and all expenses or payments relating to the contract that were incurred or paid to or by any party. This report shall be co-signed by all parties to the contract. The director may prescribe the form and content of the financial report as the director may deem appropriate. The director may prescribe procedures to allow extensions of time to file the financial report required by this subsection for a period not to exceed six months.

(e) All contracts between professional fund-raising counsel or professional solicitors, and charitable organizations shall be in writing. For the purposes of this section, the term "contract" includes all contracts, agreements, or arrangements between professional fund-raising counsel or professional solicitors, and charitable organizations.

**§467B-7 Repealed.**

**§467B-8 Information filed to become public records.** Statements, reports, professional fund-raising counsel contracts or professional solicitor contracts, and all other documents and information required to be filed under this chapter or by the director shall become government records in the department and be open to the general public for inspection at such times and under such conditions as the director may prescribe.

**§467B-9 Prohibited acts.** (a) No person, for the purpose of soliciting contributions from persons in the State, shall use the name of any other person except that of an officer, director, or trustee of the charitable organization by or for which contributions are solicited, without the written consent of the other persons.

A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if the latter person's name is listed on any stationery, advertisement, brochure, or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or the latter person's name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored, or endorsed the charitable organization or its activities.

(b) No charitable organization, professional solicitor, or professional fund-raising counsel soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

(c) No person, in connection with any solicitation or sale, shall misrepresent or mislead anyone by any manner, means, practice, or device whatsoever, to believe that the solicitation or sale is being conducted on behalf of a charitable organization or that the proceeds of the solicitation or sale will be used for charitable purposes, if that is not the fact.

(d) No professional solicitor, and no agent, employee, independent contractor, or other person acting on behalf of the professional solicitor, shall solicit in the name of or on behalf of any charitable organization unless:

- (1) The professional solicitor has obtained the written authorization of two officers of the organization, which authorization shall bear the signature of the professional solicitor and the officers of the charitable organization and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date of issuance, and has filed a copy of the written authorization with the director prior to the solicitation; and



- (2) The professional solicitor and any person who, for compensation, acts as an agent, employee, independent contractor, or otherwise on behalf of the professional solicitor carries a copy of the authorization while conducting solicitations, and exhibits it on request to persons solicited or police officers or agents of the department.
- (e) No charitable organization, professional fund-raising counsel, or professional solicitor subject to this chapter shall use or exploit the fact of filing any statement, report, professional fund-raising counsel contracts, or professional solicitor contracts or other documents or information required to be filed under this chapter or with the department so as to lead the public to believe that the filing in any manner constitutes an endorsement or approval by the State of the purposes or goals for the solicitation by the charitable organization, professional fund-raising counsel, or professional solicitor; provided that the use of the following statement shall not be deemed a prohibited exploitation: "Information regarding this organization has been filed with the State of Hawaii department of commerce and consumer affairs. Filing does not imply endorsement or approval of the organization or the public solicitation for contributions."
- (f) No person, while soliciting, shall impede or obstruct, with the intent to physically inconvenience the general public or any member thereof in any public place or in any place open to the public.
- (g) No person shall submit for filing on behalf of any charitable organization, professional fund-raising counsel, or professional solicitor, any statement, financial statement, report, attachment, or other information to be filed with the department that contains information, statements or omissions that are false or misleading.
- (h) No person shall solicit contributions from persons in the State or otherwise operate in the State as a charitable organization, an exempt charitable organization, professional fund-raising counsel, professional solicitor, or commercial co-venturer unless the person has filed the information required by this chapter with the department in a timely manner.
- (i) No person shall aid, abet, or otherwise permit any persons to solicit contributions from persons in the State unless the person soliciting contributions has complied with the requirements of this chapter.
- (j) No person shall fail to file the information and statements required by this chapter or fail to provide any information demanded by the director pursuant to this chapter in a timely manner.
- (k) No person shall employ in any solicitation or collection of contributions for a charitable organization, any device, scheme, or artifice to defraud or obtain money or property by means of any false, deceptive, or misleading pretense, representation, or promise.
- (l) No person, in the course of any solicitation, shall represent that funds collected will be used for a particular charitable purpose, or particular charitable purposes, if the funds solicited are not used for the represented purposes.
- (m) No person shall receive compensation from a charitable organization for obtaining moneys or bequests for that charitable organization if that person has also received compensation for advising the donor to make the donation; provided that compensation may be received if the person obtains the written consent of the donor to receive compensation from the charitable organization.

(n) No person, after January 1, 1995, shall sell, license, offer to trade, or offer to lease, any list of donors that was obtained from the solicitation of persons to contribute to any charitable organization unless all listed donors have been informed of their right to be deleted from the list and the person has procedures in place to delete the names of donors who ask to be deleted.

**§467B-9.5 Financial statements.** Whenever the director has reasonable grounds to believe that any charitable organization, professional fund-raising counsel, or professional solicitor has engaged in any act or practice constituting a violation of this chapter or any rule or order adopted or issued, the director may require the charitable organization, professional fund-raising counsel, or professional solicitor to submit to the department a financial statement prepared in accordance with generally accepted accounting principles by an independent certified public accountant, or as otherwise required by the director.

**§467B-9.6 Enforcement.** (a) If any charitable organization, professional fund-raising counsel, or professional solicitor fails to file any statement, report, or other information required to be filed under this chapter, the director may demand that the charitable organization, the professional fund-raising counsel, or the professional solicitor provide the statement, report, or other information not more than twenty days after demanded by the director. This demand may be mailed to the address on file with the department.

(b) Whenever the director has reason to believe that any charitable organization, professional fund-raising counsel, professional solicitor, or other person is operating in violation of this chapter, the director may investigate and bring an action in any court of this State to enjoin the charitable organization, professional fund-raising counsel, professional solicitor, or other person from continuing the violation or doing any acts in furtherance thereof, and for any other relief that the court deems appropriate.

(c) The director may exercise the authority granted by this section against any charitable organization that operates under the guise or pretense of being an organization exempted by section 467B-11, and is not an organization entitled to an exemption.

**§467B-10 Penalties.** Any person who intentionally or knowingly violates this chapter, or who intentionally or knowingly gives false or incorrect information to the director in filing statements or reports required by this chapter, whether the reports or statements are verified or not, shall for the first offense be fined not less than \$100 nor more than \$500, or imprisoned not more than six months, or both; and for the second and any subsequent offense, be fined not less than \$500 nor more than \$1,000, or imprisoned not more than one year, or both.

**§467B-10.5 Violation as unfair practice.** Any person who engages in an act or practice that violates this chapter or rules adopted or issued shall have engaged in an unfair or deceptive act or practice in the conduct of a trade or commerce, in violation of section 480-2, and shall be subject to the penalties and remedies provided for such a violation.

**§467B-11 Exemptions.** (a) Except as otherwise provided in this chapter, a charitable organization described as follows shall not be required to comply with sections 467B-2 and 467B-6 if the charitable organization complies with subsections (b) and (c):

- (1) A corporation sole or other religious corporation, trust, or organization incorporated or established for religious purposes, any agency or organization incorporated or established for charitable, hospital, or educational purposes and engaged in effectuating one or more of these purposes, that is affiliated with, operated by, or supervised or controlled by a corporation sole or other religious corporation, trust, or organization incorporated or established for religious purposes; and other religious agencies or organizations that serve religion by the preservation of religious rights and freedom from persecution or prejudice, or by fostering religion, including the moral and ethical aspects of a particular religious faith;
- (2) Educational institutions that are recognized by the director or that are accredited by a regional accrediting association or by an organization affiliated with the national commission on accrediting; any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to its student body, alumni, faculty, and trustees, and their families; or a library established under the laws of this State, provided that the annual financial report of the institution or library shall be filed with the director;
- (3) Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when all of the contributions collected without any deductions whatsoever are turned over to the named beneficiary for the beneficiary's use;
- (4) Charitable organizations that do not receive contributions from more than ten persons during a calendar year, if all of their functions, including fund-raising activities, are carried on by persons who are unpaid for their services and if no part of the assets or income of the charitable organization inures to the benefit of or is paid to any officer or member thereof;
- (5) Hospitals that are nonprofit and charitable, and are required by law to file financial reports at least annually with the State; provided that a copy of the annual fiscal report shall be filed simultaneously with the director;
- (6) Organizations that solicit only within the membership of the charitable organization by the members thereof. For the purposes of this paragraph, the term "membership" shall not include those persons who are granted a membership upon making a contribution as the result of solicitation; and

(7) Any charitable organization that received less than \$4,000 in gross receipts during the preceding annual accounting period, and that will receive less than \$4,000 in gross receipts during the current annual accounting period.

(b) Any charitable organization described in subsection (a) (1) to (6) shall submit annually to the director, on forms to be prescribed by the director the name, address, and purpose of the organization, a statement setting forth the reason for the claim for exemption, and any other information that the director may require. If the charitable organization is not exempted, it shall, prior to any solicitation, comply with all requirements of this chapter. The claim for exemption submitted by the charitable organization shall be accompanied by a fee of \$10, or in any amount and with any additional sums as may be prescribed by the director. Persons described in subsection (a) (7) shall not be required to file the claim for exemption, and shall not be required to pay any accompanying fees; provided that in the event more than \$4,000 in gross receipts is received during the current annual accounting period by a charitable organization operating under subsection (a) (7), the organization, not more than thirty days after collecting \$4,000 or more in gross receipts, and prior to any further solicitation, shall file a statement as provided in section 467B-2 or, where appropriate, a claim for exemption under subsection (a) (1) to (6).

(c) Any charitable organization described in subsection (a) (1) to (7), prior to any solicitation, shall register all names used in any solicitation, including, but not limited to, tradenames, corporation names, partnership and organization names, and fund-raising campaign names.

**§467B-12 Filing requirements for professional fund-raising counsel and professional solicitors.** (a) Every professional fund-raising counsel or professional solicitor, prior to any solicitation, shall file a statement with the department. The statement shall be in writing under oath or affirmation in the form prescribed by the director and shall contain the information as the director may require. The statement by professional fund-raising counsel or professional solicitor shall be accompanied by a fee in the amount of \$50, or in the amount and with any additional sums as may be prescribed by the director.

The statement shall list the names, addresses, and social security numbers of all officers, agents, servants, employees, directors, and independent contractors of a professional fund-raising counsel, and the names, addresses, and social security numbers of all officers, agents, servants, employees, directors, and independent contractors of a professional solicitor. Renewal statement shall be filed with the department on or before July 1 of each calendar year in which the professional fund-raising counsel or professional solicitor does business in or from the State and shall be effective until June 30 of the next calendar year. The renewal statement shall be in a form prescribed by the director. A renewal fee of \$50, or in any amount and with any additional sums as may be prescribed by the director, shall accompany the renewal statement.

(b) The professional fund-raising counsel or professional solicitor, at the time of each filing, shall file with and have approved by the director a bond in which the applicant is the principal obligor in the penal sum of \$5,000 issued with good and sufficient surety or sureties approved by the director and which shall remain in effect for one year. The bond shall inure to the benefit of the State, conditioned that the applicant, its officers, directors, employees, agents, servants, and independent contractors shall

not violate this chapter. A partnership or corporation that is a professional fund-raising counsel or professional solicitor may file a consolidated bond on behalf of all its members, officers, and employees.

(c) The charitable organization may void any agreement or contract for compensation or reimbursement with a professional solicitor or professional fund-raising counsel for that person's failure to comply with this section before or while soliciting persons on behalf of the charitable organization. If the charitable organization voids the agreement or contract, moneys collected by the professional solicitor or professional fund-raising counsel shall be paid to the charitable organization, to be held in trust on behalf of those donors who request a refund. The charitable organization shall make best efforts to notify donors of their option of receiving a refund. All moneys not claimed by the donors shall be the sole property of the charitable organization.

**§467B-13 Rules.** The director may make, amend, or repeal such rules pursuant to chapter 91, as may be deemed proper to effectuate this chapter.

**§467B-14 Publication.** The director shall publish annually, in a newspaper of general circulation in the State, a list of all charitable organizations, professional fund-raising counsel, and professional solicitors, that have filed statements with the department.